

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0373-MWD-E TCEQ ID: RN102181781 CASE NO.: 32898
RESPONDENT NAME: City of Nixon

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Wastewater treatment facility, 1.5 miles north of the intersection of U.S. Highway 87 and State Highway 80 on the south bank of the Clear Fork of the Sandies Creek north of the City of Nixon, Gonzales County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cari-Michel LaCaille, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1387 ; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Ms. Marilyn Byrd, City Administrator/Manager, City of Nixon, 100 West Third Street, Nixon, Texas 78140-2555 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 1, 2007</p> <p>Date of NOE Relating to this Case: February 28, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ0010234001, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A].</p>	<p>Total Assessed: \$1,680</p> <p>Total Deferred: \$336 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,344</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on April 2, 2006, the City replaced bearings in the racetrack and cleaned contact chambers and returned to compliance with its permitted limits on April 30, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

TCEQ

DATES	Assigned	5-Mar-2007	PCW	13-Mar-2007	Screening	12-Mar-2007	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	City of Nixon		
Reg. Ent. Ref. No.	RN102181781		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32898	No. of Violations	1
Docket No.	2007-0373-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Carl-Michel La Caille
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$1,200

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 65% Enhancement **Subtotals 2, 3, & 7** \$780

Notes A 65% enhancement is recommended for having 7 NOV's for self reported effluent data violations, two NOV's for same or similar violations, and one Agreed Order with denial within the last five years.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction **Subtotal 5** \$300

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent came into compliance on April 30, 2006.

Total EB Amounts	\$17
Approx. Cost of Compliance	\$2,000

0% Enhancement* **Subtotal 6** \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,680

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$1,680

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,680

DEFERRAL 20% Reduction **Adjustment** -\$336

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$1,344

Screening Date 12-Mar-2007

Docket No. 2007-0373-MWD-E

PCW

Respondent City of Nixon

Policy Revision 2 (September 2002)

Case ID No. 32898

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102181781

Media [Statute] Water Quality

Enf. Coordinator Cari-Michel La Caille

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 65% enhancement is recommended for having 7 NOV's for self reported effluent data violations, two NOV's for same or similar violations, and one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 12-Mar-2007

Docket No. 2007-0373-MWD-E

PCW

Respondent City of Nixon

Policy Revision 2 (September 2002)

Case ID No. 32898

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102181781

Media [Statute] Water Quality

Enf. Coordinator Cari-Michel La Caille

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0010234001, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on February 1, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH₃-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow and biochemical oxygen demand ("BOD") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,400

This violation Final Assessed Penalty (adjusted for limits) \$1,400

Economic Benefit Worksheet

Respondent City of Nixon
Case ID No. 32898
Reg. Ent. Reference No. RN102181781
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	31-Jan-2006	2-Apr-2006	0.2	\$17	n/a	\$17

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$17

Effluent Violation Table City of Nixon TPDES Permit No. WQ0010234001 (Outfall 001A) Docket No. 2007-0373-MWD-E		
Permitted Effluent Limits	Monitoring Period End Date	
	01/31/2006	03/31/2006
NH ₃ -N Daily Avg. 3 mg/L	8.50	9.10
NH ₃ -N Single Grab 15 mg/L	c	20.5
NH ₃ -N Daily Avg. 11 lbs/dy	55.72	c

Avg. = average	mg/L = milligrams per liter
lbs/dy = pounds per day	NH ₃ -N= ammonia nitrogen

Compliance History

Customer/Respondent/Owner-Operator:	CN600675656	City of Nixon	Classification: AVERAGE	Rating: 2.15
Regulated Entity:	RN102181781	CITY OF NIXON WWTP	Classification: AVERAGE	Site Rating: 1.29
ID Number(s):	WASTEWATER	PERMIT	WQ0010234001	
	WASTEWATER	PERMIT	TPDES0070785	
	WASTEWATER	PERMIT	TX0070785	
	WASTEWATER LICENSING	LICENSE	WQ0010234001	
Location:	APPROXIMATELY 1.5 MILES N. OF THE INTERSECTION OF US HWY 87 AND SH 80 ON THE SOUTH BANK OF THE CLEAR FORK OF THE SANDIES CREEK, NORTH OF THE CITY OF NIXON IN GONZALES COUNTY			Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	March 07, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 07, 2002 to March 07, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Cari-Michel La Caille	Phone:	512-239-1387	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | | |
|--------------------------|--|----------------------------|
| N/A | Effective Date: 08/07/2005 | ADMINORDER 2004-1221-MWD-E |
| Classification: Moderate | | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: | Effluent Limits PERMIT | |
| Description: | Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|-----|------------|----------|
| 1 | 03/21/2002 | (196966) |
| N/A | | |
| 2 | 04/19/2002 | (196969) |
| 3 | 05/28/2002 | (196972) |
| 4 | 06/17/2002 | (196974) |
| 5 | 07/16/2002 | (196976) |
| 6 | 08/19/2002 | (196978) |
| 7 | 09/13/2002 | (196980) |
| 8 | 10/21/2002 | (196982) |
| 9 | 11/20/2002 | (196984) |
| 10 | 12/09/2002 | (196986) |
| 11 | 01/07/2003 | (196988) |
| 12 | 02/24/2003 | (196964) |
| 13 | 03/20/2003 | (196967) |
| 14 | 04/14/2003 | (196970) |
| 15 | 05/21/2003 | (311863) |

16	06/16/2003	(311864)
17	08/06/2003	(311865)
18	09/22/2003	(311866)
19	09/26/2003	(311867)
20	11/03/2003	(311868)
21	12/01/2003	(311869)
22	12/18/2003	(311870)
23	01/23/2004	(311871)
24	02/25/2004	(311860)
25	03/15/2004	(311861)
26	04/15/2004	(311862)
27	05/17/2004	(358762)
28	05/27/2004	(273410)
29	06/23/2004	(358763)
30	07/08/2004	(278098)
31	07/22/2004	(358764)
32	08/16/2004	(358765)
33	09/24/2004	(358766)
34	11/01/2004	(385538)
35	11/29/2004	(385539)
36	12/20/2004	(385540)
37	01/14/2005	(385541)
38	02/14/2005	(423557)
39	03/09/2005	(423558)
40	04/15/2005	(423559)
41	05/16/2005	(423560)
42	06/09/2005	(380005)
43	06/13/2005	(423561)
44	07/20/2005	(444365)
45	08/12/2005	(444366)
46	09/19/2005	(444367)
47	09/28/2005	(433055)
48	10/14/2005	(474916)
49	11/18/2005	(474917)
50	12/09/2005	(474918)
51	01/17/2006	(474919)
52	02/13/2006	(474914)
53	03/13/2006	(474915)
54	04/14/2006	(502569)
55	05/12/2006	(502570)
56	06/19/2006	(502571)
57	07/18/2006	(524891)
58	08/18/2006	(524892)
59	09/14/2006	(524893)
60	02/28/2007	(538950)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	06/30/2003	(311865)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2003	(311866)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2003	(311869)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2003	(311870)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

Date	03/31/2004	(311862)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/28/2004	(273410)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to comply with the effluent limitations as specified in the permit.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to accurately analyze effluent samples in a manner representative of the monitored activity			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to perform accurate loading calculations for permit parameters (i.e. CBOD5, TSS, and NH3-N).			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to calibrate the OCM II Milltronics flow meter as often as necessary to ensure accuracy.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Rqmt Prov:	PERMIT TPDES PERMIT 10234-001			
Description:	Failure to meet the holding time requirement for pH analysis.			
Date	06/20/2005	(380005)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(1) TWC Chapter 26 26.121(a)(2) TWC Chapter 26 26.121(a)(3) TWC Chapter 26 26.121(a)[G] TWC Chapter 26 26.121(b) TWC Chapter 26 26.121(c) TWC Chapter 26 26.121(d) TWC Chapter 26 26.121(e) TWC Chapter 26 26.121[G]			
Rqmt Prov:	OP Permit Conditions, No. 2. g.			
Description:	Failure to prevent unauthorized discharges in the collection system.			
Date	01/31/2006	(474914)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2006	(502569)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NIXON
RN102181781**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§**

AGREED ORDER DOCKET NO. 2007-0373-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Nixon ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 1.5 miles north of the intersection of U.S. Highway 87 and State Highway 80 on the south bank of the Clear Fork of the Sandies Creek north of the City of Nixon in Gonzales County, Texas (the "Facility").
2. The City has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Six Hundred Eighty Dollars (\$1,680) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Three Hundred Forty-Four Dollars (\$1,344) of the

administrative penalty and Three Hundred Thirty-Six Dollars (\$336) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 2, 2006, the City replaced bearings in the racetrack and cleaned contact chambers and returned to compliance with its permitted limits on April 30, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ0010234001, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A, as documented during a record review conducted on February 1, 2007, as indicated in the table below.

City of Nixon TPDES Permit No. WQ0010234001 (Outfall 001A)		
Permitted Effluent Limits	Monitoring Period End Date	
	01/31/2006	03/31/2006
NH ₃ -N Daily Avg. 3 mg/L	8.50	9.10
NH ₃ -N Single Grab 15 mg/L	c	20.5
NH ₃ -N Daily Avg. 11 lbs/dy	55.72	c
Avg. = average		mg/L = milligrams per liter
lbs/dy = pounds per day		NH ₃ -N= ammonia nitrogen

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS


1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Nixon, Docket No. 2007-0373-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

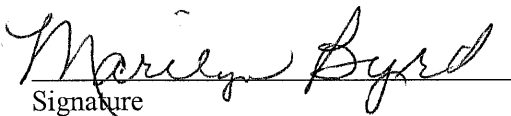
7/12/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

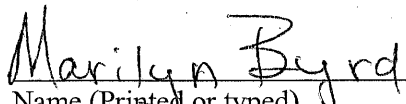
- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4-3-07
Date



Name (Printed or typed)
Authorized Representative of
City of Nixon

City Administrator
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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